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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/749,988	12/31/2003	Duane L. McDonald	17,858.3	9975

23556 7590 10/25/2006

KIMBERLY-CLARK WORLDWIDE, INC.
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NEENAH, WI 54956

EXAMINER

BUI, LUAN KIM

ART UNIT	PAPER NUMBER
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3728

DATE MAILED: 10/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/749,988

Applicant(s)

MCDONALD, DUANE L.

Examiner

Luan K. Bui

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 September 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) 6,7 and 15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5,8-14,16-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-5 and 21-24 are finally rejected under 35 U.S.C. 102(b) as being anticipated by Tubo et al. (5,040,677; hereinafter Tubo'677). Tubo'677 discloses a package (10) enclosing a single skin wound dressing/disposable absorbent article (30) comprising a first piece of material (20) and a second piece of material (21) being operatively associated with the first piece of material to define a seal (17) and at least a portion of the first piece of material (19) and at least a portion of the second piece of material (Figure 2) extend beyond the seal to deliver an opening element. The skin wound dressing of Tubo'677 is inherently capable to absorb and dispose which is considered equivalent to the disposable absorbent article as claimed.

As to claims 2-3, the first piece of material is more rigid than the second piece of material (column 3, lines 47-52).

As to claim 4, the second piece of material is defined as 20 and the first piece of material is defined as 21.

As to claims 5 and 21, Tubo'677 discloses the seal defined at least one lateral edge and at least one longitudinal edge and a portion of the opening element extended beyond at least one lateral edge of the seal and a portion of the opening element extended beyond at least one longitudinal edge of the seal (Figure 1).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 8, 10, 25 and 26 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Tubo et al. (5,040,677; hereinafter Tubo'677) in view of The Japanese Patent No. 10-95481 to Narawa (hereinafter Narawa). Tubo'677 discloses the package (10) as above having all the limitations of the claims except for the package being vacuum packed. Narawa shows a package (1) enclosing a single disposable absorbent article (2) comprising a vacuum packed. It would have been obvious to one having ordinary skill in the art in view of Narawa to modify the package of Tubo'677 so the package is vacuum packed for better protecting the article and also reduce the size of the package.

5. Claims 11-14 and 20 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Tubo et al. (5,040,677; hereinafter Tubo'677) in view of Hahn et al. (4,801,005; hereinafter Hahn'005). Tubo'677 discloses the package (10) as above having all the limitations of the claims except for the absorbent article comprises a ratio of the folded configuration to the unfolded configuration of less than 0.14. Hahn'005 shows a package (5) for holding a mat (1) and the mat having an absorbent top surface (3, 4) which is considered equivalent to the disposable absorbent article as claimed. The mat has a ratio of a folded configuration to an unfolded configuration of less than 0.14 and the mat disposed within the package to facilitate storage and/or transportation

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due to a compact package. It would have been obvious to one having ordinary skill in the art in view of Hahn'005 to modify the package of Tubo'677 so the package is used to carry an absorbent article which has a ratio of the folded configuration to the unfolded configuration of less than 0.14 to provide a compact package to facilitate storage and/or transportation.

6. Claim 16 is finally rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 11 above, and further in view of The Japanese Patent No. 10-95481 to Narawa (hereinafter Narawa). Tubo'677 discloses the package (10) as above having all the limitations of the claims except for the package being vacuum packed. Narawa shows a package (1) enclosing a single disposable absorbent article (2) comprising a vacuum packed. It would have been obvious to one having ordinary skill in the art in view of Narawa to modify the package of Tubo'677 so the package is vacuum packed for better protecting the article and also reduce the size of the package.

7. Claims 9, 17 and 18 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 1 and 11 above, and further in view of Frank-Farah et al. (6,640,976; hereinafter Frank-Farah'976). The package of Tubo'677 further fails to show the opening element being coded such as color coded to indicate the size or type of the article. Frank-Farah'976 shows a package (10) for articles comprising color coded on the articles and instructions (34, column 5, lines 1-7). It would have been obvious to one having ordinary skill in the art in view of Frank-Farah'976 to modify the package of Tubo'677 as modified so the

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opening element includes color coded to indicate the size or type of the article to provide more convenient for the user.

8. Claim 19 is finally rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 17 above, and further in view of The Official Notice. Tubo'677 as modified further fails to show the coded being tactilely coded. The Official Notice is taken of the old conventional practice of providing tactilely coded for helping the visually handicapped user. It would have been obvious to one having ordinary skill in the art in view of The Official Notice to modify the coded of Tubo'677 as modified so the coded comprises tactilely coded to provide more convenience for the visually handicapped user.

Response to Arguments

Applicant's arguments with respect to 9/7/2006 have been considered but are deemed to be moot in view of the new grounds of rejection.

Applicant's arguments with respect to Tubo in the remarks are noted. They are not persuasive because the skin wound dressing is inherently capable to absorb and dispose which is considered equivalent to the disposable absorbent article as claimed.

Applicant's arguments with respect to Tubo in view of Narawa in the remarks are noted. They are not persuasive because Narawa teaches to manufacture the compact package for holding the disposal diaper to provide more convenient for carrying and storage (see [0005]). It would have been obvious to one having ordinary skill in the art in view of Narawa to modify the

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package of Tubo so it comprises a compact package such as a vacuum packaged to provide more convenient for the user.

Applicant's arguments with respect to Tubo in view of Franks-Farah in the remarks are noted. They are not persuasive because it would have been obvious to one having ordinary skill in the art in view of Franks-Farah to modify the package of Tubo as modified so the opening element includes color coded to assist the user identifying the article within the package and it would have been obvious to one having ordinary skill in the art in view of Tubo as modified so the color coded indicates the size or type of the article disposed within the package since it has been held that the printed matter merely taught a new use for an existing product and thus couldn't impart patentability. In re Ngai.

Applicant's arguments with respect to the Official Notice in the remarks are noted. They are also not persuasive because such tactile coded to indicate the type of the article disposed within the package is old and conventional in the package art.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

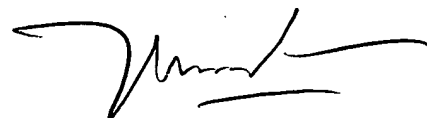
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luan K. Bui whose telephone number is 571-272-4552. The examiner can normally be reached on 8:30-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. **The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300 for Formal papers and After Final communications.**

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

lkb
October 24, 2006



Luan K. Bui
Primary Examiner
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